

RESOLUTION 08-11-2008 A

WHEREAS, the City Council of Greenland, Arkansas, has this date been presented with a proposed agreement from Steve Davis d/b/a Davis Business Planning, LLC concerning the financing of improvements and betterments to the Greenland Sewer System and Greenland's contract with the City of Fayetteville.

WHEREAS, the City Council has sought financial advisory services from local providers;

WHEREAS, the City Council has, after discussion and deliberation, determined that Steve Davis d/b/a Davis Business Planning, LLC would best serve the needs of the City on this project;

BE IT THEREFORE RESOLVED BY THE CITY COUNCIL OF GREENLAND, ARKANSAS, that after due deliberation and consideration the attached agreement with Steve Davis d/b/a Davis Business Planning, LLC for various services and financial advisory services is approved; the Council has determined that the interest of the City, its residents and occupants will be best served by accepting and entering into said agreement as attached with Steve Davis d/b/a Davis Business Planning, LLC for its services in regard to the scope of services in paragraph 12 of the Agreement.

The Mayor and Recorder-Treasurer should be and hereby are authorized to execute and deliver signed copies of the attached Agreement to Steve Davis d/b/a Davis Business Planning, LLC and to take all steps necessary to secure the anticipated services as specified in such Agreement and make payment for those services as invoiced per the agreement.

PASSED AND APPROVED this 11 day of August, 2008.

John Gray
JOHN GRAY, Mayor

Donna Cheevers
DONNA CHEEVERS, Recorder-Treasurer

CONSULTING CONTRACT

THIS AGREEMENT is made as of July 16, 2008 between the City of Greenland (“Greenland”) and Davis Business Planning, LLC (“DBP”).

In the event of a conflict in the provisions of any attachments hereto and the provisions set forth in this Agreement, the provisions of such attachments shall govern.

1. Services.

DBP agrees to perform for Greenland the services listed in the Scope of Services section in this AGREEMENT, amendments to this initial Scope of Services shall be in writing, executed by both Greenland and DBP and attached to this AGREEMENT. Such services are hereinafter referred to as “Services.” Greenland agrees that DBP shall have ready access to Greenland’s staff and resources as necessary to perform the DBP’s services provided for by this contract.

2. Rate of Payment for Services.

Greenland agrees to pay DBP for Services in accordance with the schedule contained in Paragraph 14 Compensation and Reimbursable Expenses with a maximum Not-To-Exceed Compensation of \$5,000.00 unless amended as set forth in Paragraph 13.

3. Invoicing.

Greenland shall pay the amounts agreed to herein upon receipt of invoices which shall be sent by DBP, and Greenland shall pay the amount of such invoices to DBP.

4. Confidential Information.

DBP agrees to comply with the applicable provisions of the Arkansas FOIA Law to the extent the Arkansas FOIA Law is applicable to the work product of the AGREEMENT.

5. Staff.

DBP is an independent contractor and neither DBP nor DBP’s staff is or shall be deemed to be employed by Greenland. Greenland is hereby contracting with DBP for the services described in Paragraph 12 Scope of Agreement and DBP reserves the right to determine the method, manner and means by which the services will be performed. DBP is not required to perform the services during a fixed hourly or daily time and if the services are performed at the Greenland’s premises, then DBP’s time spent at the premises is to be at the discretion of the DBP; subject to the Greenland’s normal business hours and security requirements. DBP hereby confirms to Greenland that Greenland will not be required to furnish or provide any training to DBP to enable DBP to perform services required

hereunder. The services shall be performed by DBP or DBP's staff, and Greenland shall not be required to hire, supervise or pay any assistants to help DBP who performs the services under this agreement. DBP shall not be required to devote DBP's full time nor the full time of DBP's staff to the performance of the services required hereunder, and it is acknowledged that DBP has other Clients and DBP offers services to the general public. The order or sequence in which the work is to be performed shall be under the control of DBP. Except to the extent that the DBP's work must be performed on or with Greenland's computers or Greenland's existing software, all materials used in providing the services shall be provided by DBP. DBP's services hereunder cannot be terminated or cancelled short of completion of the services agreed upon except for DBP's failure to perform the contract's specification as required hereunder and conversely, subject to Greenland's obligation to make full and timely payment(s) for DBP's services as set forth in Exhibit A, DBP shall be obligated to complete the services agreed upon and shall be liable for non-performance of the services to the extent and as provided in Paragraph 11 hereof. Greenland shall not provide any insurance coverage of any kind for DBP or DBP's staff, and Greenland will not withhold any amount that would normally be withheld from an employee's pay. DBP shall take appropriate measures to insure that DBP's staff is competent and that they do not breach Section 4 hereof.

6. Use of Work Product.

DBP shall retain ownership of its work product and retain any copyright and patent rights with respect to all materials developed under this contract, and Greenland is hereby granted a non-exclusive license to use and employ such materials within the Greenland's business.

7. Greenland Representative.

Greenland's representative for this Agreement is John Gray, Mayor of Greenland. The parties agree that the Greenland City Council may designate additional or substitute representative (s) by action of the Greenland City Council. The designated Greenland representative shall represent Greenland during the performance of this contract with respect to the services and deliverables as defined herein and has authority to execute written modifications or additions to this contract as defined in Section 14 as agreed to by the Greenland City Council.

8. Applicable Law.

The parties agree that the laws of the State of Arkansas shall be the applicable law governing this AGREEMENT. Any disputes that arise between the parties with respect to the performance of this contract shall be resolved under the laws of the State of Arkansas with the parties agreeing to Mediation and/or Arbitration prior to seeking remedy through the Arkansas Court System.

9. Taxes.

Any and all taxes or city licenses or permits, except income taxes, social security (self-employment) and medicare imposed or assessed by reason of this contract or its performance, including but not limited to sales or use taxes, shall be paid by the Greenland.

10. Liability.

DBP warrants to Greenland that the material, analysis, data, programs and services to be delivered or rendered hereunder, will be of the kind and quality designated and will be performed by qualified personnel. Special requirements for format or standards to be followed shall be attached as an additional Exhibit and executed by both Greenland and DBP. DBP makes no other warranties, whether written, oral or implied, including without limitation, warranty of fitness for purpose or merchantability. In no event shall DBP be liable for special or consequential damages, either in contract or tort, whether or not the possibility of such damages has been disclosed to DBP in advance or could have been reasonably foreseen by DBP, and in the event this limitation of damages is held unenforceable then the parties agree that by reason of the difficulty in foreseeing possible damages all liability to Greenland shall be limited to the limits of DBP's professional liability (errors and omissions) coverage which DBP shall maintain.

11. Complete Agreement.

This agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of DBP by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Greenland acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein.

12. Scope of Agreement.

The services to be performed by DBP are technical advisory services to assist Greenland in determining financing options for implementation of wastewater system improvements and implementation of financing strategies needed to construct necessary wastewater system improvements as described below:

A: Participate in meetings with Greenland officials, technical representatives of Greenland and representatives of City of Fayetteville to develop infrastructure improvement alternatives needed by the City of Fayetteville as a condition of transferring ownership of the Greenland Wastewater collection system to the City of Fayetteville.

B. Participate in meetings with Arkansas Natural Resources Commission staff to determine applicable alternatives available to Greenland for identified wastewater improvements.

C: Develop financing alternatives for review and discussion by the Mayor and City Council of Greenland to fund the selected wastewater improvement alternative.

13. Additional Work.

After receipt of an order, duly approved by the Greenland City Council, which adds to the Services, DBP may, at its discretion, take reasonable action and expend reasonable amounts of time and money based on such order. Greenland agrees to pay DBP for such action and expenditure as set forth in Paragraph 14 of this Agreement for payments related to Services.

14. Compensation and Reimbursable Expenses

Lead consultant: \$150.00 per hour.

Consultant: \$100.00 per hour.

Clerical Staff: \$ 45.00 per hour.

Travel expenses incurred by DBP and Sub-Consultants for travel outside Washington County Arkansas shall be reimbursed based on the following: mileage rate as published by the Internal Revenue Service and distances computed by Rand-McNally or comparable mapping software, meal reimbursement as published by Internal Revenue Service and any other travel expenses are to be reimbursed based on actual receipts. Travel is to be authorized by the appropriate Greenland City Official in advance. Printing expenses are to be reimbursed based on actual receipts.

15. Period of Performance

The parties agree that services under this Agreement were authorized to begin April 28, 2008.

16. Notices.

(i). Notices to Greenland should be sent to:

City of Greenland, Arkansas
John Gray, Mayor
P.O. Box 67
GREENLAND, AR 72737

(ii). Notices to DBP should be sent to:

Davis Business Planning, LLC
ATTN: Stephen Davis, Member
P. O. Box 3381
101 West Mountain Street, Suite 106
Fayetteville, AR 72702

15. Assignment.

This Agreement may not be assigned by either party without the prior written consent of the other party. Except for the prohibition on assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefits of the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date first above written.

City of Greenland

Davis Business Planning, LLC



John Gray
John Gray, Mayor
Date: 8/11/2008

Stephen Davis, Member
Date:

Attest: *Donna Cheevers*

Donna Cheevers, City Clerk
City of Greenland, Arkansas